

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARGUERITE BAGAROZZI,

Plaintiff,

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION;  
SHOMARI AKIL, PRINCIPAL of QUEENS ACADEMY  
HIGH SCHOOL; NATHIFA MORRIS, ASSISTANT  
PRINCIPAL of QUEENS ACADEMY HIGH SCHOOL,

Defendants.

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**NOTICE OF MOTION TO  
DISMISS THE  
COMPLAINT**

18-cv-04893 (RA)

**PLEASE TAKE NOTICE** that upon the annexed Declaration of Evan M. Piercey, dated August 8, 2018, and the exhibits annexed thereto, the accompanying Memorandum of Law in Support of Defendant's Motion to Dismiss the Complaint, dated August 8, 2018, and upon all the papers and proceedings previously had herein, the Defendant New York City Department of Education ("DOE") in the above-captioned action, will move this Court at the United States Courthouse for the Southern District of New York, 40 Foley Square, New York, New York 10007, before the Honorable Ronnie Abrams, United States District Court Judge, at a time and date to be designated by the Court, for a judgment, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and Section 3813 of the New York State Education Law, dismissing the Complaint in its entirety against Defendant DOE on the grounds that the Complaint fails to state a claim upon which relief can be granted and is procedurally deficient.<sup>1</sup>

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<sup>1</sup> Upon information and belief, the putative individual defendants have not been properly served in this action. While no appearance is being made on their behalf, the arguments supporting dismissal would also apply to them, had they been served.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Civil Rule 6.1(b), answering papers, if any, must be served upon the undersigned within fourteen (14) days after service of the moving papers, and reply papers, if any, are to be served upon plaintiff within seven (7) days after service of the answering papers.

Dated: New York, New York  
August 8, 2018

**ZACHARY W. CARTER**  
Corporation Counsel of the  
City of New York  
Attorney for Defendant DOE  
100 Church Street, Room 2-184  
New York, New York 10007-2608  
(212) 356-2428  
[epiercey@law.nyc.gov](mailto:epiercey@law.nyc.gov)

By:                     /s/                      
Evan M. Piercey  
Assistant Corporation Counsel

TO: **Via ECF**  
GLASS KRAKOWER LLP  
Bryan D. Glass, Esq.  
Attorneys for Plaintiff  
100 Church Street, Suite 800  
New York, NY 10007

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**ZACHARY W. CARTER**

*Corporation Counsel of the City of New York*

Attorney for Defendant DOE

100 Church Street, Room 2-184

New York, New York 10007

Of Counsel: Evan M. Piercey

Telephone: (212) 356-2428

Matter No.: 2018-038284

*Due and timely service is hereby admitted.*

*Dated: New York, New York.....2018*

*Signed: .....*

*Attorney for .....*